

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

Cub Club Investment, LLC,

Plaintiff,

v.

Apple Inc.,

Defendant.

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Civil Action No.: 6:20-cv-856-ADA-JCM

**DECLARATION OF MARK ROLLINS IN SUPPORT OF
APPLE INC.'S MOTION TO TRANSFER VENUE PURSUANT TO 28 U.S.C. § 1404(a)**

I, Mark Rollins, declare as follows:

1. I am over 18 years of age and competent to make this declaration. I am employed as a Finance Manager at Apple Inc. ("Apple"), and my primary place of work is Sunnyvale, California. I have been employed by Apple since 2019.

2. I provide this declaration in support of Apple's Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a) to the Northern District of California ("NDCA") in the above-captioned case. Unless otherwise indicated below, the statements made in this declaration are based on my personal knowledge, my review of corporate records maintained by Apple in the ordinary course of its business, and/or my discussions with Apple employees. If called to testify as a witness in this matter, I could and would testify competently and truthfully to each of the statements in this declaration under oath.

3. Apple is a California corporation and was founded in 1976. Apple is a global business headquartered in Cupertino, California, which is in the NDCA. I understand that the NDCA includes the following counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa

Cruz, and Sonoma. Apple's management and primary research and development facilities are located in or near Cupertino, including surrounding cities such as Sunnyvale, all of which are located in the NDCA. The primary operation, marketing, sales, and finance decisions for Apple also occur in or near Cupertino, and Apple's business records related to product revenue are located there. As of November 2020, Apple has more than 35,000 employees who work in or near its Cupertino headquarters.

4. I understand that Cub Club Investment, LLC ("Cub Club" and/or "Plaintiff") filed the above-captioned infringement lawsuit against Apple in the United States District Court for the Western District of Texas ("WDTX"). In its Original Complaint for Copyright Infringement ("Complaint") filed on September 18, 2020, Plaintiff alleges that Apple (1) infringes Cub Club's copyrights and trade dress, (2) is in violation of Cub Club's common law rights including unfair competition and misappropriation, and (3) consequently benefited from unjust enrichment. Complaint, Counts I–V. I understand that Plaintiff's claims relate to Apple's use of skin tone emoji in Apple devices ("Accused Features"). See for example, Complaint ¶¶ 46–52.

5. As set forth below, there are two groups of employees at Apple who work directly with skin tone emoji, consisting of members of Apple's Human Interface ("HI") team and members of Apple's Framework team. Both groups are based in the NDCA and neither are based in Texas. Furthermore, the majority of relevant Apple employees within these teams work in California with the exception of a few individuals who work remotely in Oregon. I understand that working and electronic files related to the development, design, and implementation of skin tone emoji were primarily generated in the NDCA, and none were generated in Texas. These documents concerning the Accused Features reside primarily on local computers located in California or on servers accessible in California only by Apple employees.

6. Lauren Tappana is a Producer within the HI team. Ms. Tappana confirmed that members on the HI team are responsible for emoji design and keyboard integration. Although, as described below, Apple uses the Unicode Standard to determine what emoji are offered on its platform, Ms. Tappana confirmed that either Apple designs the actual emoji images itself or hires outside vendors (based in Los Angeles, CA) to do so. Ms. Tappana currently oversees emoji-related work within the HI team including emoji design and implementation of skin tone emoji design. Ms. Tappana confirmed that all Apple employees who work on the Accused Features work in the NDCA with the exception of one individual who works remotely in Oregon. None of Ms. Tappana's team members who work on the Accused Features (1) has ever lived in Texas while working on the Accused Feature, (2) is currently located in Texas, or (3) works with any individuals located in Texas with respect to the Accused Feature. Ms. Tappana has never traveled to Texas in connection with her work on the Accused Features.

7. Aurelio Guzman is a Designer within the HI team. Mr. Guzman currently works on emoji-related work within the HI team including emoji design and implementation of skin tone emoji design. Mr. Guzman confirmed that all Apple employees who have worked and currently work on the Accused Features within the HI group work in the NDCA with the exception of one individual who works remotely in Oregon. None of Mr. Guzman's team members who work on the Accused Features (1) has ever lived in Texas while working on the Accused Features, (2) is currently located in Texas, or (3) works with any individuals located in Texas with respect to the Accused Features. Mr. Guzman has never traveled to Texas in connection with his work on the Accused Features.

8. Ms. Tappana and Mr. Guzman are the primary Apple employees currently involved with emoji design, including implementation of the Accused Features. Both work with Christian

Dalonzo and Dylan Edwards, who are Designers within the HI team and are responsible for keyboard design with respect to skin tone emoji. Ms. Tappana, Mr. Guzman, Mr. Dalonzo, and Mr. Edwards all work and reside in the NDCA; none of these individuals live or work in Texas.

9. There are also former HI team members who worked on skin tone emoji at the time of the events alleged in Cub Club's complaint who no longer work with Apple but who may have information relevant to this lawsuit. Chris Wilson (separation date 07/10/2020) was an Apple lead for emoji at the time skin tones were introduced. During his time at Apple, Mr. Wilson's primary workplace was in the NDCA. Apple's records reflect that, as of Mr. Wilson's separation date, he continued to reside in San Francisco. Matt Evans (separation date 1/22/15) was also a member of the HI team working on emoji when Apple's skin tone emoji were introduced. During his time at Apple, Mr. Evans' primary workplace was in the NDCA. Apple's records reflect that, as of Mr. Evans' separation date, he also resided in San Francisco. Sebastian Bauer (separation date 7/13/2018), another former HI team member, was a producer for emoji when Apple's skin tone emoji were introduced. During his time at Apple, Mr. Bauer's primary workplace was in the NDCA. Apple's records reflect a last known address for Mr. Bauer in Santa Monica, California.

10. Peter Edberg is a Senior Software Engineer within Apple's iOS System Experience team. Mr. Edberg was identified in Cub Club's complaint (see, Complaint ¶¶ 22, 26–32, 34, 36–42). At the time of the events alleged in the complaint (2013-2015) (Complaint ¶¶ 21–47), Mr. Edberg was a Senior Software Engineer within Apple's Framework team and was Apple's primary representative to Unicode. I understand that, during this period, Mr. Edberg was a member of Celia Vigil's team. Ms. Vigil was also identified in Cub Club's complaint (see Complaint ¶¶ 27–28, 30, 33–35, 42). During the events alleged in the complaint, she was a Senior Director in

Apple's Frameworks department and was directly responsible for coordinating Apple's emoji work across different groups.

11. As relevant to this lawsuit, Ms. Vigil's role included responsibility for overseeing work with Unicode on Apple's delivery of emoji. Apple uses the Unicode Standard to determine its emoji offerings. Ms. Vigil's team worked on text display on Apple products. I understand that the team of engineers within the Framework group that Ms. Vigil oversaw worked as part of a group known sometimes as the International Text group and sometimes as International Text and Font. Whereas the HI team members working on emoji are responsible for art design and production, as well as user interface and keyboard layout, the team of engineers Ms. Vigil oversaw strictly focused on the implementation of those designs. This team of engineers reside and work in the NDCA with a few exceptions who work remotely in Oregon. I understand that none of Ms. Vigil's team members who worked on the Accused Features has ever lived in Texas while working on the Accused Features or worked with any individuals located in Texas with respect to the Accused Features. During her more than three-decade tenure at Apple, Ms. Vigil worked in the NDCA. I understand that Ms. Vigil met with Mrs. Parrott in May 2014 (see Complaint ¶ 33) and that meeting took place in Cupertino. I understand that Ms. Vigil is no longer an Apple employee (separation date 11/15/2019). Apple's records reflect a last known address for Ms. Vigil in Los Altos, California. Ms. Vigil began her employment at Apple as an engineer and left Apple with the title of Senior Director.

12. I am knowledgeable about Apple's sales and financial information concerning Apple's products related to the Accused Features. My primary workplace is in the NDCA. The primary place of work for employees on my team is in the NDCA. Documents concerning sales and financial information for these products reside on local computers and/or servers either located

in or around the NDCA or accessible in the NDCA. Neither I nor any employee on my team are located in Texas. I have never traveled to Texas in connection with my work on this team. None of my team members work with any individuals located in Texas with respect to financials relevant to the Apple products in this matter.

13. As of the date of this declaration, Apple operates over 270 retail stores in the United States, more than 50 of which are in California, including 19 stores in the NDCA. Apple has two retail stores in Austin, two retail stores in San Antonio, and one store in El Paso, located in the WDTX. I am not aware of any retail employee in these retail stores who was ever involved in the development, design, and implementation of skin tone emoji. To the extent that any of Apple's relevant products are sold in the WDTX, they are and were sold nationwide, and are not offered in any manner or degree differently than they are offered elsewhere. Apple has non-retail offices in Austin and Lockhart, Texas (located in the WDTX) and Dallas and Garland, Texas (located in the Northern District of Texas). To the best of my knowledge, however, Apple employees with relevant information relating to the Accused Features and relevant Apple products are located in the NDCA.

14. I declare under penalty of perjury that the foregoing is true and correct. Executed on November 20, 2020, in Santa Clara, California.



Mark Rollins